



## THE CITY OF SAN DIEGO **MANAGER'S REPORT**

DATE ISSUED: December 6, 2000 REPORT NO. 00-265

ATTENTION: Honorable Mayor and City Council  
Docket of December 12, 2000

SUBJECT: Del Mar Mesa Road/Shaw Ridge Road Project

### SUMMARY

Issue - Should the City Council authorize a condemnation action to acquire property rights necessary for the Del Mar Mesa Road/Shaw Ridge Road Project?

Managers's Recommendation - Authorize the condemnation action to obtain the necessary property rights.

Other Recommendations - None

Fiscal Impact - The estimated costs of condemnation include: Value of the property rights to be acquired: Land \$184,500; title, escrow, litigation, and miscellaneous expenses \$149,500. Total \$334,000. Funds for the condemnation are available in Developers Trust Fund - No. 63020 for Del Mar Mesa Road.

### BACKGROUND

This project provides for the construction of a portion of Del Mar Mesa Road, a two-lane residential local street identified in the adopted Del Mar Mesa (Subarea 5) Specific Plan. The project is proposed as a means of providing a more acceptable level of service for both existing and planned traffic volumes within Del Mar Mesa. This action relates to the acquisition of a permanent easement for approximately 700 linear feet of right-of-way for a public street, and a slope easement. All of the other property required for the remainder of this two-mile long segment of Del Mar Mesa Road has been acquired or irrevocably offered for dedication to the City.

The proposed location of Del Mar Mesa Road has been the subject of years of discussions between the City, community members and the affected property owners, as well as numerous public hearings. Over the years, numerous alternatives for the location of the road were analyzed. Del Mar Mesa Road was identified and studied in the original Del Mar Mesa Specific Plan, and its associated Master Environmental Impact Report, in July 1996. Del Mar Mesa Road is also an offsite condition of Mesa Verde Estates Vesting Tentative Map No. 96-0625. The proposed location of the road at issue here was approved by the Planning Commission in connection with Del Mar Mesa Road/Deer Canyon Sewer, Resource Protection Ordinance (RPO) Permit No. 99-0099, and is identified in the Del Mar Mesa Specific Plan as amended in June 2000. The developer, Mesa Verde-Del Mar, has been unsuccessful in its attempt to acquire these property rights and has requested the City to exercise its power of eminent domain to acquire the necessary property rights. Copies of correspondence from the developer to the property owners have been submitted to the Real Estate Assets Department.

On August 15, 2000, the City adopted Resolution of Necessity No. R-293731 with respect to the property at issue here. That resolution mistakenly indicated that the City would acquire fee title to property necessary for the right-of-way. This action requests that the City Council rescind Resolution No. R-293731. This action also requests that the City Council adopt a new resolution of necessity to acquire an easement over, and not fee title to, the property needed for the right-of-way. This action requires that the Council independently determine whether the elements of necessity discussed below are met. Because this is a new resolution, any discussion or information presented at the August 15, 2000, hearing may not be relied upon.

A final offer for the necessary property rights was made by the City prior to the August 15, 2000, adoption of Resolution of Necessity No. R-293731. That offer was not accepted. Since the original offer was rejected, the developer and the City have continued to negotiate with the property owner. In addition, another offer was sent to the property owners on November 1, 2000. That offer also has not been accepted. Although negotiations will continue with the owner, condemnation is requested to ensure that the property can be acquired and construction can begin in a timely manner.

## DISCUSSION

Eminent Domain law requires that any person subject to condemnation proceedings be given the opportunity to speak and be heard regarding the following questions to which the Council must address itself:

### **1. Does the public interest and necessity require the proposed project?**

Yes. The public interest and necessity require the Del Mar Mesa Road/Shaw Ride Road Project. The Del Mar Mesa Specific Plan identifies Del Mar Mesa Road as an important east-west connector within Del Mar Mesa neighborhood of Carmel Valley. The road will

be constructed as a two-lane residential local street in conformance with the Del Mar Mesa Specific Plan and RPO Permit No. 99-0099.

As discussed in the Del Mar Mesa Specific Plan, Del Mar Mesa Road is an integral part of the circulation network for the area. The road is necessary to improve public safety and facilitate fire and emergency access to a portion of the City that has been served primarily by dirt roads. Del Mar Mesa Road will improve direct vehicular access for existing residents, Mesa Verde Estates and other planned residential developments in the area. The existing development on the property owner's remaining approximately four acres of property, as well as any future subdivision of that property, will also directly benefit from the better, safer means of access.

**2. Is the proposed project planned or located in the manner that will be most compatible with the greatest public good and the least private injury?**

Yes. Condemnation of the property for the Del Mar Mesa Road/Shaw Ride Road Project is consistent with the Del Mar Mesa Specific Plan and Resource Protection Ordinance (RPO) Permit No. 99-0099. The public benefits of the road include better and safer vehicular access, as well as improved fire/emergency access. The proposed location of the road resulted from years of studies, community planning group meetings, City hearings and other community discussions, and it will result in the greatest public good and least private injury. Other alternatives to the proposed location of the road have been considered and rejected because of their greater environmental impacts, construction costs, or traffic considerations. For example, an earlier proposal for Del Mar Mesa Road was rejected in order to avoid impacts to wetlands and sensitive resources. Other locations were similarly rejected because of their impact on existing residential structures.

As noted in the resolution adopted by the Planning Commission in connection with RPO Permit 99-099, and the associated California Environmental Quality Act ("CEQA") document, Del Mar Mesa Road was designed to minimize impacts on sensitive habitats and other significant environmental impacts. The proposed alignment is consistent with the Multiple Species Conservation Program. Design of the street has also minimized private injury by limiting the width of the right of way easement to approximately 52 feet. Private injury is further minimized because the project will provide the remainder of the property owner's property with all weather access and access to public sewer and water facilities that are presently unavailable.

Private injury is also minimized because the existing, unimproved Del Mar Mesa Road presently runs through the middle of the property at issue here. This 15' to 20' foot wide dirt road has been the primary means of vehicular access for the Del Mar Mesa area for at least 30 years. The proposed alignment will locate the majority of Del Mar Mesa Road along the property's northern boundary line, with a portion of an "S" curve along the eastern approximately one-third of the property. The original Del Mar Mesa Road/Shaw

Ridge Road may be abandoned upon completion of the project at issue here. Therefore, the movement of Del Mar Mesa Road to the north will likely leave the property owners with a larger, contiguous area which could possibly be subdivided in the future.

**3. Is the property sought to be acquired necessary for the proposed project?**

Yes. The Property sought to be acquired is the minimum needed to provide the right-of-way required to construct Del Mar Mesa Road. The Del Mar Mesa Specific Plan identifies Del Mar Mesa Road as a critical east-west connector for this area of the City. Acquisition of the property will allow the City to provide a safe, efficient street system with all weather access and public utilities for the community. Construction of the road is an important element of providing adequate emergency access, public utilities and others services for both existing and future residents of Del Mar Mesa.

The City and others have considered a number of alternative locations for Del Mar Mesa Road. As documented in RPO Permit No. 99-099 and the associated CEQA document, the proposed alignment of Del Mar Mesa Road balances the interests of the environment, the community and the various property owners located along the proposed road. The property at issue here is necessary for the construction of the road.

**ALTERNATIVE:**

As an alternative to the Manager's recommendation, the Council could take other actions, including one of the following alternatives:

1. Have the developer provide alternative access to the development pursuant to Mesa Verde Estates Vesting Tentative Map No. 96-0625.

The developer and City staff have made extensive efforts to acquire the property at issue without the use of eminent domain. This property is the last remaining piece needed for the construction of Del Mar Mesa Road as the primary east-west connector road. If the property is not acquired, the developer may provide access to its property through alternative means. This alternative is not recommended because the alternative access available has been exhaustively studied and found not to provide as great a benefit for the community as a whole. Further, if the developer does not build the road, construction of Del Mar Mesa Road may be significantly delayed. Such a delay is inconsistent with the phasing plan set forth in the Del Mar Mesa Specific Plan.

2. Have the Manager direct the developer to relocate Del Mar Mesa Road in an alignment that does not require any right-of-way across the property sought to be acquired in this action.

Although all the right-of-way needed to construct Del Mar Mesa Road except the property sought to be acquired by this action has been obtained, the road has not yet been constructed and could still be realigned to exclude the property sought to be acquired in this action. This alternative is not recommended for the following reasons. As noted above, the alignment of Del Mar Mesa Road is located in a way that is compatible with the greatest public good and least private injury. Numerous alternative routes have previously been considered by the City and the community. The Planning Commission found the proposed alignment to be consistent with the Resource Protection Ordinance when it approved RPO Permit No. 99-0099 for Del Mar Mesa Road in August 1999. Furthermore, the developer may decide not to build Del Mar Mesa Road and instead provide access to the Mesa Verde project via an alternative means that does not provide as great a benefit for the community as a whole. If the developer does not build the road, construction of Del Mar Mesa Road may be significantly delayed. Such a delay is inconsistent with the phasing plan set forth in the Del Mar Mesa Specific Plan, as well as the needs of the community.

Respectfully submitted,

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William T. Griffith  
Real Estate Assets Director

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Approved: George I. Loveland  
Assistant City Manager

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